

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

FREDERICK SELLERS,

Plaintiff,

v.

**CIVIL ACTION NO.: 3:15-CV-121
(GROH)**

**ST. JOSEPH HOSPITAL and
SALVATOR LANSANA, MD,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation ("R&R") of United States Magistrate Judge Robert W. Trumble. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Trumble for submission of a proposed R&R. Magistrate Judge Trumble issued his R&R [ECF No. 32] on June 28, 2017. In the R&R, he recommends that the Defendant's complaint [ECF No. 1] be dismissed without prejudice. Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and of a Plaintiffs right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th

Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).


Objections to Magistrate Judge Trumble's R&R were due within fourteen plus three days of the Plaintiff being served with a copy of the same. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Service was accepted by the pro se Plaintiff on July 5, 2017. ECF No. 33. On July 14, 2017, the Plaintiff filed a response to Magistrate Judge Trumble's R&R. Therein, the Plaintiff does not make any objections to the R&R, but instead, he simply asks this Court to return his \$350 filing fee. That request shall be addressed in a forthcoming Order. Accordingly, this Court reviewed the R&R for clear error.

Upon careful review of the R&R, it is the opinion of this Court that Magistrate Judge Trumble's Report and Recommendation [ECF No. 32] should be, and is hereby, **ORDERED ADOPTED** for the reasons more fully stated therein.

Accordingly, the Plaintiff's Complaint [ECF No. 1] is **DISMISSED WITHOUT PREJUDICE**. This matter is **ORDERED STRICKEN** from the Court's active docket.

The Clerk of Court is **DIRECTED** to mail a copy of this Order to the Plaintiff by certified mail, return receipt requested, at his last known address as reflected on the docket sheet.

DATED: October 11, 2017


GINA M. GROH
CHIEF UNITED STATES DISTRICT JUDGE